

EXHIBIT B

SUMMONS

IN THE CIRCUIT COURT OF WAYNE COUNTY, WEST VIRGINIA

HERSHALL PARSLEY, Plaintiff

V.

CIVIL ACTION NO:

NORFOLK AND WESTERN RAILWAY COMPANY, Defendant

Process Address:

Richard W. Kienle
Three Commercial Place
Norfolk, VA 23510

To the above-named Defendant: NORFOLK AND WESTERN RAILWAY COMPANY.

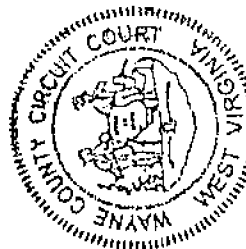
IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby Summoned and required to serve upon DONALD JARRELL, plaintiff's attorney whose address is PO BOX 190 WAYNE WV 25570, an answer including any related counterclaim you may have to the complaint filed against you in the above-styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer with-in 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will thereafter be barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.

Dated: 10-10-17

Melissa J. Longwood
Clerk of Court

By:

Sharon Perry
Deputy Clerk



ACCEPTED FOR
SERVICE OF PROCESS
SECRETARY OF STATE
STATE OF WEST VIRGINIA

ACCEPTED FOR
SERVICE OF PROCESS
2017 OCT 18 P 2:45
STATE OF WEST VIRGINIA

PLAINTIFF: HERSHALL PARSLEY
CASE NO.: 17-C-145
DEFENDANT: NORFOLK AND WESTERN RAILWAY COMPANY

II. TYPE OF CASE:

TORTS	OTHER CIVIL	
<input type="checkbox"/> Asbestos	<input type="checkbox"/> Adoption	<input type="checkbox"/> Appeal from Mag. Court.
<input type="checkbox"/> Professional Malpractice	<input type="checkbox"/> Contract	<input type="checkbox"/> Petition for Modification Of Magistrate Sentence
<input type="checkbox"/> Personal Injury	<input type="checkbox"/> Real Property	<input type="checkbox"/> Miscellaneous Civil
<input type="checkbox"/> Product Liability	<input type="checkbox"/> Mental Health	<input type="checkbox"/> Other- liable, injunctive
<input type="checkbox"/> Other Tort	<input type="checkbox"/> Appeal of Administrative Agency	<input type="checkbox"/> Habeas Corpus

III. JURY DEMAND: ☒ Yes ☐ No

CASE WILL BE READ FOR TRIAL BY (Month/Year): UNKNOWN

IV. DO YOU OR ANY OR YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE? ☐ YES ☒ NO
IF YES, PLEASE SPECIFY:

- ☐ Wheelchair accessible hearing room and other facilities
☐ Interpreter or other auxiliary aid for the hearing impaired
☐ Reader or other auxiliary aid for the visually impaired
☐ Spokesperson or other auxiliary aid for the speech impaired
☐ Other: _____

Attorney Name: Donald R. Jarrell, Esquire

Representing:

Firm: Law Offices of Donald R. Jarrell

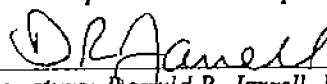
Address: P.O. Box 190

Wayne, WV 25570

Telephone: (304) 272-6391

☒ Plaintiff ☐ Defendant☐ Cross- ☐ Cross-

Complainant Complainant



Signature: Donald R. Jarrell, Esquire

☐ Pro Se
 FILED
 CIRCUIT CLERK'S OFFICE
 2017 OCT 10 PM 2:38
 WAYNE COUNTY, WV

CIVIL CASE INFORMATION STATEMENT
CIVIL CASES

In the Circuit Court, WAYNE County, West Virginia

I. CASE STYLE:

Hershall Parsley
Plaintiff,

Case # 17-C-145

Judge Yancy

V.

Norfolk and Western Railway Company
110 Franklin Road SE
Roanoke, VA 24042-0028
Defendant

Agent of Process: Richard W. Kienle
Three Commercial Place
Norfolk, VA 23510

Days to Answer Service
20 days

Certified mail

Original and 2 copies furnished herewith.

IN THE CIRCUIT COURT OF WAYNE COUNTY, WEST VIRGINIA

HERSHALL PARSLEY,

Plaintiff,

V.

CIVIL ACTION NO:
JUDGE: Young

NORFOLK AND WESTERN RAILWAY COMPANY,

Defendant.

FILED
CIRCUIT CLERK'S OFFICE
2017 OCT 10 PM 2:38
WAYNE COUNTY, WV

COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the Plaintiff, Hershall Parsley, by and through his undersigned attorney and sues the Defendant, Norfolk And Western Railway Company, and alleges as follows:

1. That the Plaintiff, Hershall Parsley is a resident of 16554 Middlefork Road, Laurelville, Ohio, 43135.
2. The defendant, Norfolk and Western Railway Company with a principal address as 110 Franklin Road SE, Roanoke, VA 24042-0028, and with an agent of process as Richard W. Kienle, Three Commercial Place, Norfolk, VA 23510.
3. On or about the 18th day of April 1916, Norfolk and Western Railway Company, signed and completed an agreement with C.F Harris, his heirs and assigns, to maintain a crossing to his property. A copy of the Agreement is attached hereto and will be known as Exhibit A.
4. On or about the 3rd day of June 1991, the property formerly of C.F. Harris, was

purchased by Mary and William Parsley and is described further in the following:

Bound on the East by the lands of Verna Harris Joseph; on the South by the lands of Walter Williams; on the West by Tug River, and on the North by William Crum land

BEGINNING at a white oak and hickory on the ridge and on the line of the William Crum land and a corner to the Verna Harris Joseph land; thence S. 72-3/4 W 14 poles to a stake in a gap; thence S 73 1/2 W 15 poles to a hickory on a knob; thence S 14 W 28 poles to a black oak on a point; thence S 22 W 15 poles to a pine on a point; thence S 14 W 43 poles to a rock at Tug River; thence S 52 E 27 1/2 poles to a stake; thence S 34 1/2 E 10 1/2 poles to a stake at the mouth of Silver Creek; thence running up said creek 20 1/2 E 14 1/2 poles to a stake; thence N 46 1/2 E 36 poles to a stake; thence N 45 E about 16 1/4 poles to an iron stake on the South Bank of Silver Creek and a corner to Verna Harris Joseph's land; thence N 34 W and running with the line of Verna Joseph's land about 44 poles to a pine on a rock cliff; thence N 3 E about 24 poles to a white oak and a hickory, the BEGINNING corner, containing THIRTY (30) ACRES, more or less.

located in Deed Book 542 at page 337. A copy is attached hereto and incorporated herein and labeled as Exhibit B.


5. On or about the 24th day of December 2011, at approximately 2:00 AM, the home located on this property caught on fire. The Wayne County Sheriff, Greg Farley, advised the property owners that the engineer called and reported the fire to Crum Fire Department. Crum Fire Department could not get to the house due to the crossing was removed.
6. On or about the above-mentioned date was when the Plaintiff was first made aware of the crossing being removed.
7. On the 12th day of October 2012, William Parsley passed away and his son, Hershall Parsley became the heir owner to this property. Attached is the death certificate as Exhibit C.

Count I Negligence in Maintaining Crossing

Norfolk and Western Railroad Company had a duty to maintain the crossing per the agreement in Exhibit A. They breached that duty when they allowed the crossing to be removed and not maintained. The breach of this duty caused the fire department to be unable to access a fire on this property which resulted in a structure being destroyed. Norfolk and Western Railroad Company should immediately replace the crossing and forever maintain it as per their agreement, as well as provide the Plaintiff the funds to replace the structure that stood on the property.

WHEREFORE, the Plaintiff, HERSHALL PARSLEY, demands judgment against the Defendant, NORFOLK AND WESTERN RAILWAY COMPANY, in an amount equal to or in excess of JURISDICTIONAL LIMITS, together with costs, prejudgment and post judgment interest and demands trial by jury on all issues so triable as of right by jury.

HERSHALL PARSLEY
By Counsel


LAW OFFICES OF DONALD R. JARRELL
Counsel for Plaintiff
218 North Court Street
P.O. Box 190
Wayne, WV 25570
(304) 272-6391

Reg. Dist. No. 85
 Primary Reg. Dist. No. 6500
 Registrar's No. 651194

Ohio Department of Health
 VITAL STATISTICS
 CERTIFICATE OF DEATH

State File No.

1. Decedent's Legal Name (Include AKA's if any) (Last, Middle, LAST, suffix) WILLIAM HOWARD PARSLEY SR		2. Sex Male	3. Date of Death (Mo/Day/Year) October 12, 2012
4. Social Security Number 85	5a. Age (Years) 85	5b. Under 1 Year Months Days	5c. Under 1 day Hours Minutes
6. Date of Birth (Mo/Day/Year)		7. Birthplace (City and State or Foreign Country) CRUM, WEST VIRGINIA	
8a. Residence State OHIO	8b. County PICKAWAY	8c. City or Town ASHVILLE	8d. Zip Code 43103
9. Ever in US Armed Forces? Yes		10. Marital Status at Time of Death MARRIED	
11. Decedent's Education HIGH SCHOOL GRADUATE OR GED		12. Decedent's Race White	
13. Decedent of Hispanic Origin No		14. Decedent's Race White	
15. Father's Name ELBERT PARSLEY		16. Mother's Name (prior to first marriage) MAUDE ARTHUR	
17a. Informant's Name MARY PARSLEY		17b. Relationship to Decedent Wife	
18a. Place of Death Decedent's Home		18b. City or Town, State and Zip Code ASHVILLE, OH 43103	
18c. County of Death PICKAWAY		19. Signature of Funeral Service Licensee or Other Agent <i>Craig A. Wellman</i>	
20. License Number (of Licensee) 008325		21. Name and Complete Address of Funeral Facility WELLMAN FUNERAL HOMES INC	
22a. Date of Disposition October 17, 2012		22b. Location (City/Town and State) ASHVILLE, OH.	
23. Place of Disposition (Name of Cemetery, Crematory, or other place) Reber Hill Cemetery		24. Date of Death October 18, 2012	
25a. Name of Person Issuing Death Permit JOHNSTON, PAULA		25b. Date of Death Permit Issued 10-16-12	
26a. Signature of Person Issuing Death Permit <i>Paula Johnston</i>		26b. Date of Death October 18, 2012	
27. Name (Last, First, Middle) and Address of Person who Completed Cause of Death BOHLEN, JOHN G., 610 NORTHRIDGE RD CIRCLEVILLE, OH 43113-000		28. Part C. Enter on Usable, visible, or computerized form caused the death. Do not enter the cause of death, such as homicide or respiratory arrest, stroke, or sepsis. Use only one cause on each line. Type or print in permanent blue or black ink.	
29. Immediate Cause (final disease or condition resulting in death) Acute Myocardial Infarction		30. Approximate Interval Between Onset and Death 60 years	
31. Sequentially list conditions, if any, leading to immediate cause a. Due to (or as Consequence of)			
32. Enter Underlying Cause (Disease or injury that initiated events resulting in a death) b. Due to (or as Consequence of)			
33. Part D. Other significant conditions contributing to death but not resulting in the underlying cause given in Part C.			
34. Was an Autopsy Performed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		35. Were Autopsy Findings Available Prior To Completion Of Cause of Death? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable	
36. Was an Autopsy Performed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		37. Manner of Death <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Homicide <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Accident <input type="checkbox"/> Suicide <input type="checkbox"/> Could not be determined	
38. Was Tobacco Use Contributing to Death? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> Unknown <input type="checkbox"/> No <input type="checkbox"/> Probably		39. If Female: Pregnancy Status <input type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Not pregnant, but pregnant within 42 days of death <input type="checkbox"/> Not pregnant, but pregnant 43 days to 1 year before death <input type="checkbox"/> Unknown if pregnant within the past year	
40a. Date of Injury (Mo/Day/Year)		40b. Time of Injury	
40c. Place of Injury (e.g., Decedent's home, construction site, restaurant, wooded area)		40d. Injury at Work? <input type="checkbox"/> Yes <input type="checkbox"/> No	
41. Location of Injury (Street and Number or Rural Route Number, City or Town, State)		42. Describe How Injury Occurred: <input type="checkbox"/> Driver/Operator <input type="checkbox"/> Pedestrian <input type="checkbox"/> Passenger <input type="checkbox"/> Other	

Crum, West Va. April 20, 1916.

We, C. F. Harris and Philista Harris, his wife, have this day delivered to Holt, Duncan, & Holt a deed for five parcels of land conveyed to the Norfolk and Western Railway Company, a corporation, and having duly acknowledged the same, as requested by them, on April 19, 1916. The deed is to be effective upon the following conditions:

That the said C. F. Harris be paid five Hundred Dollars;

That the said Holt, Duncan, & Holt furnish him with a written contract, properly signed by the Said Railway Company, binding themselves to construct a farm crossing across their Railway tracks, just west of the Cedar grove and opposite tract or parcel No. 1. of the conveyance, where the public crossing is now located. The approaches to same from either side to be such that the crossing will be easily passable for teams and vehicles. The same to be forever kept up and maintained by the Railway Company and its successors or assigns.

That the said C. F. Harris, his heirs ~~or~~ assigns have a 16 ft. right of way near west end of parcel No. 1, leading over same to waters of Tug River.

All this being in harmony with a former agreement and with letter of instructions, from Holt, Duncan, & Holt bearing date of April 17th 1916.

Signed.

C. F. Harris
Philista Harris

a corporation, and having duly acknowledged the same, as requested by them, on April 19, 1916. The deed is to be effective upon the following conditions:

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All this being in harmony with a former agreement and with letter of instructions, from Holt, Duncan, & Holt bearing date of April 17th 1916.

Signed.

C. F. Harris
Philinda Harris

6598 Daw Lee Road
Ashville, Ohio

43103

THIS DEED, dated this 3rd day of June, 1991, by and between ELSIE BOWEN, single, party of the first part, and MARY E. PARSLEY and WILLIAM H. PARSLEY, husband and wife, JOINTLY, or the survivor thereof, parties of the second part.

W I T N E S S E T H

That for and in consideration of the sum of ONE (\$1.00) dollars, this day cash in hand paid, and other good and valuable considerations, the receipt and sufficiency of all of which is hereby acknowledged, the parties of the first part do hereby GRANT, SELL, and CONVEY, unto the said parties of the second part AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON, all that certain tract or parcel of real estate situate on Silver Creek, fronting on Tug River, Lincoln District, Wayne County, West Virginia, bounded and described as follows:

Bound on the East by the lands of Verna Harris Joseph; on the South by the lands of Walter Williams; on the West by Tug River, and on the North by the William Crum land

BEGINNING at a white Oak and Hickory on the ridge and on the line of the William Crum land and a corner to the Verna Harris Joseph land; thence S. 72-3/4 W 14 Poles to a stake in a Gap; thence S 73 1/2 W 15 Poles to a Hickory on a knob; thence S 14 W 28 Poles to a Black Oak on a point; thence S 22 W 15 Poles to a Pine on a point; thence S 14 W 43 poles to a rock at Tug River; thence S 52 E 27 1/2 poles to a stake; thence S 34 1/2 E 10 1/2 poles to a stake at the mouth of Silver Creek; thence running up said creek 20 1/2 E 14 1/2 poles to a Stake; thence N 46 1/2 E 36 poles to a stake; thence N 45 E about 16-3/4 poles to an iron stake on the South Bank of Silver Creek and a corner to Verna Harris Joseph's land; thence N 34 W and running with the line of Verna Joseph's land about 44 poles to a pine on a rock cliff; thence N 3 E about 24 poles to a White Oak and a Hickory, the BEGINNING corner, containing THIRTY (30) ACRES, more or less.

Being the same property conveyed to Elsie Bowen, by Deed from Aubrey Bowen, dated the 30th day of December, 1981, of record in the office of the Clerk of the County Commission of Wayne County, West Virginia in Deed Book No. 478, at Page 399.

BOOK 542

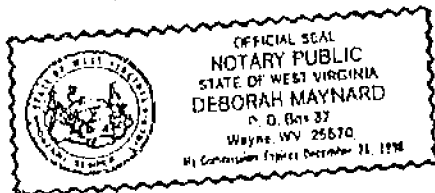
PAGE 337

TO HAVE AND TO HOLD, together with all and singular, the

STATE OF WEST VIRGINIA

COUNTY OF WAYNE, TO-WIT:

I, Deborah Maynard a Notary Public within and for the above named County and State, do hereby certify that Elsie Bowen, widow, whose name is signed to the foregoing and hereto annexed Deed bearing date the 3rd day of June, 1991, has this day in person, signed, sealed, and acknowledged the same before me in my said County and State on this 3rd day of June, 1991.
My Commission expires December 28, 1998.



Deborah Maynard
NOTARY PUBLIC

THIS INSTRUMENT WAS PREPARED BY:
RICHARD THOMPSON, ATTORNEY AT LAW
P.O. BOX 37, WAYNE, WEST VIRGINIA 25570

WEST VIRGINIA, WAYNE COUNTY CLERK'S OFFICE
This instrument was this day presented in my office, and thereupon together with the certificate thereto annexed, is admitted to record.

JUN 3 1991

By Robert E. Pasley Clerk
Shirley A. Osburn Deputy

RICHARD THOMPSON
ATTORNEY AT LAW
P. O. BOX 37

VERIFICATION OF PLEADING

I, Hershall Parsley named in the foregoing Complaint, being first duly sworn, says that the facts and allegations therein contained are true, except so far as they are therein stated to be upon information, he believes them to be true.

Hershall Parsley
HERSHALL PARSLEY

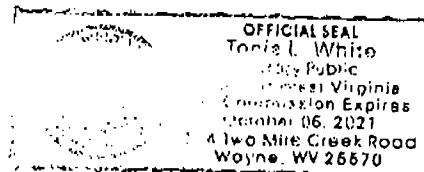
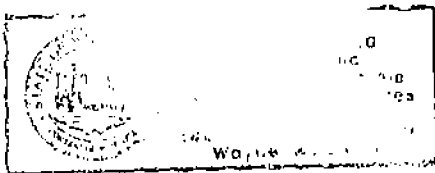
STATE OF WEST VIRGINIA:

COUNTY OF WAYNE:

Taken, subscribed and sworn to this 2nd day of September, 2017.

My commission expires 10-06-2021

Tonia L. White
NOTARY PUBLIC



Law Offices of Donald R. Jarrell

Personal Injury Litigation

PO Box 190
Wayne, WV 25570
Telephone: (304)272-6391
Fax: (304)272-6392

**Attorney:
Donald R. Jarrell**

October 10, 2017

Secretary of State Office
State Capital Building
Bldg. 1, Suite 157-K
1900 Kanawha Blvd. East
Charleston, WV 25305-0770

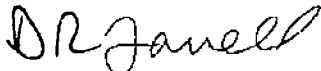
RE: **Hershall Parsley
v.
Norfolk and Western Railway Company
Wayne County Circuit Court
Civil Action No: 17-C-145
Judge James H. Young, Jr.**

Processing Division:

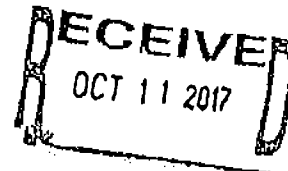
Enclosed please find one original and two copies of the Complaint in the above-referenced civil action, along with a check in the amount of \$20.00 for service.

If you should have any questions, please do not hesitate to contact the office.

Sincerely,



Donald R. Jarrell, Esquire
DRJ/tw
Enclosures

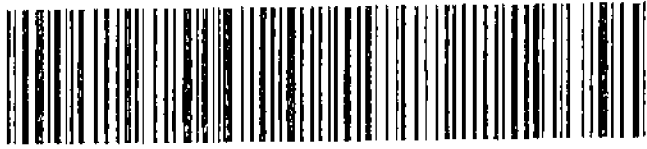


Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



Mac Warner
Secretary of State
State of West Virginia
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NORFOLK AND WESTERN RAILWAY COMPANY
NOWNORFOLK SOUTHERN RAILWAY COMPANY
Angela W. Konrad
611 Third Avenue
Huntington, WV 25701

Control Number: 204572

Defendant: NORFOLK AND WESTERN RAILWAY
COMPANY NOWNORFOLK
SOUTHERN RAILWAY COMPANY
611 Third Avenue
Huntington, WV 25701 US

Agent: Angela W. Konrad

County: Wayne

Civil Action: 17-C-145

Certified Number: 92148901125134100002175570

Service Date: 10/18/2017

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your corporation.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your corporation as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

A handwritten signature in cursive script that reads "Mac Warner".

Mac Warner
Secretary of State

the Court's decision in *United States v. Jones*, 529 U.S. 848, 120 S.Ct. 1503, 146 L.Ed.2d 659 (2000), which held that the government's installation of a GPS tracking device on a vehicle without a warrant violated the Fourth Amendment. The Court in *Jones* found that the government's installation of the GPS device on the vehicle constituted a search under the Fourth Amendment. The Court's decision in *Jones* is binding on the Court in this case.

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